IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

MFA.No. 1214 of 2001(A)

O.A.69/1998 OF FOREST TRIBUNAL, KOZHIKODE.
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APPELLANTS IN MFA/RESPONDENTS IN O.A.:
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1. **KERALA STATE, REPRRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM.**

2. **CUSTODIAN OF VESTED FORESTS, OLAVAKKOD.**

BY GOVERNMENT PLEADER.

RESPONDENTS IN MFA/APPLICANTS IN O.A:
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1. **MEENAKSHY, W/O. TREETHY, MANNUR, KIZHAKKUMPURAM, PALGHAT DISTRICT.**

2. **P.T. UNNIKRISHNAN, MANNUR, -DO- -DO-.**

3. **SUNDARAN, MANNUR, -DO- -DO-.**

4. **KUMARAN, MANNUR -DO-.**

BY ADV. SRI.A.R.GANGADAS.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1214 OF 2001

Dated 7th June, 2007

JUDGMENT

Koshy,J.

This appeal is filed by the State questioning the order of the Forest Tribunal which partly allowed the application filed by the respondents. When department took action against enjoyment of the property by the respondents, respondents filed an application stating that one acre 35 cents of land in their possession is not vested forest. According to them, it was not a private forest as defined under the Kerala Private Forests (Vesting and Assignment) Act and even if it is vested forest, they are entitled to exemption under section 3(1) and 3(2) of the above Act. A Commissioner was appointed and Exts.C1 report and C2 plan were filed. The commission report and plan would show that out of the total extent, 60.5 cents were cultivated land. After considering the commission report, it was found that there are six palmyra trees aged 30 years, 4 palmyra trees aged 15 years, 10 cashew trees of 20 years and six tamarind trees aged 5 years. All these would show that 60.5 cents of property in Mannur village covered by Ext.C2 plan was not private forest, but, actually it was cultivated. The property situated in Mankara Village is having forest trees. Therefore, the

application was allowed only with regard to 60.5 cents of property. With regard to other property, the application was rejected. Tribunal's order is based on evidence, commission report and facts of the case. It is a finding of facts and we are of the opinion that no grounds are made out to interfere with the finding of facts in an appeal as there was no perverse finding.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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